Supreme Court, U. S.
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76-6965

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. 76-6965

PAUL WILLIAM JORDAN,

Petitioner,

v.

STATE OF ARIZONA,

Respondent.

SUPPLEMENTAL BRIEF

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This brief is submitted pursuant to Rule 22 (5) of the Rules of this Court, to address a decision rendered since the filing of the certiorari petition.

On August 8, 1977, Mr. Justice Rehnquist issued an opinion in Richmond v. Arizona, No. 76-6720, denying a stay of execution pending reconsideration of the denial of Richmond's petition for certiorari. Mr. Justice Rehnquist noted that the Arizona death penalty statute is similar to one which this Court will review in Bell v. Ohio, No. 76-6513 (certiorari granted June 27, 1977), in that it limits the factors which may be considered in mitigation. He denied a stay, however, because Richmond had failed to allege that any of the factors precluded from sentencing consideration under Arizona law were relevant to Richmond's particular case.

Petitioner Jordan respectfully submits that since mitigating evidence forbidden under the Arizona statute is irrelevant

and therefore inadmissible in an Arizona death sentencing proceeding [State v. Richmond, ___ Ariz. ___, 560 P.2d 41, 50 (1976)], it cannot be expected that such evidence will be present in the record on appeal. Petitioner could have presented evidence in mitigation had he been accorded the opportunity. But under the Arizona statute, a searching inquiry into "... whatever mitigating circumstances may be relevant ...", Harry Roberts v. Louisiana, ___ U.S. ___, 52 L.Ed. 2d 637, 642 (1977), was prohibited by law.

There are now eighteen persons under sentence of death in Arizona (See Exhibit A, infra, "Roster of Inmates with Death Sentence," prepared by the Arizona Department of Corrections.) Many may well have significant mitigating factors in their cases which nonetheless could not have been introduced at their punishment hearings because of the narrowness of the Arizona statute. This Court should not permit executions of these individuals to proceed simply because the records in their cases before the Court do not contain that which under Arizona law they cannot contain.

Gregg v. Georgia, 428 U.S. 153, 195 (1976)(plurality opinion), indicated that "each distinct system [for imposing the death sentence] must be examined on an individual basis." The Arizona system, so like Ohio's and so unlike those which this Court has previously sustained, certainly ought to be examined on an individual basis. At the very minimum, certiorari should not be denied while the Court examines the Ohio statutory scheme during the forthcoming Term. The Court should either grant

certiorari or, alternatively, hold this case for disposition in light of Bell v. Ohio.

Respectfully submitted,

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ATTORNEYS FOR PETITIONER

INMATES WITH DEATH SENTENCE

ARIZONA STATE PRISON

ROSTER OF INMATES

NAME	ETHNIC	SUPREME COURT CASE NO.	ASP NUMBER	DATE RECEIVED	COUNTY
DOSS, Charles Russell*	W	3069	32823	5-9-74	Maricopa
RICHMOND, Willie Lee*	B	2914	33415	10-31-74	Pima
WATSON, Spencer*	B	3089	30756 (PV)	11-27-74	Pima
LEE, Charles	B	3094	30724 (PV)	12-12-74	Maricopa
CEJA, Jose Jesus*	M/A	3102	33603	12-20-74	Maricopa
BLAZAK, Mitchell*	W	3099	28599 (PV)	12-20-74	Pima
KNAPP, John*	W	3106	33659	1-9-75	Maricopa
TREADAWAY, Jonathan*	W	3116	33919	3-6-75	Maricopa
JORDAN, Paul William*	W	3156	33965	3-23-75	Maricopa
STEELMAN, Willie Luther	W	3299	34608	8-27-75	Pima
HOLSINGER, Wilmar*	W	3402	35195	1-26-76	Maricopa
BISHOP, Ronald Paul	W	3569	35804	6-18-76	Yavapai
ARNETT, James Alan	W	3684	36102	9-10-76	Yavapai
EVANS, Larry Eugene	W	3721	36165	9-24-76	Maricopa
GRETZLER, Douglas Edward	W	3750	36335	11-17-76	Pima
MORALES, Joe Cota	M/A	3769	36454	12-23-76	Maricopa
MELENDEZ, Ruben	M/A	3768	36455	12-23-76	Maricopa
EDWARDS, Robert	B	3957	37133	6-23-77	Pima

* See Attachment

Prepared July 18, 1977

Research Report #76-7

EXHIBIT A

INMATES WITH DEATH SENTENCES
Page 2

DOSS, Charles Russell	32823	7-7-77	Supreme Court Judgment affirmed; Sentence Modified (Modification has not been received by Dept. of Corrections.)
RICHMOND, Willie Lee	33415	12-20-76	Supreme Court Judgment Affirmed
		2-17-77	Supreme Court Order Affirming Conviction & Sentence
		2-17-77	Warrant for Execution
WATSON, Spencer	30756	11-5-76	Supreme Court Order Remanding For Further Proceedings
CEJA, Jose Jesus	33603	5-16-77	Supreme Court Judgement Affirmed
		6-16-77	Order Affirming Judgment & Sentence
			Warrant For Execution
BLAZAK, Mitchell	28598	2-17-77	Supreme Court Order Affirming Judgment
			Warrant For Execution
		4-6-77	Motion to Vacate Day of Execution Granted
KNAPP, John	33659	4-1-77	Supreme Court Order Affirming Sentence and Judgment
			Warrant For Execution
		6-27-77	Stay of Execution Granted/per phone conversation
TREADAWAY, Jonathan	33919		Court action has been taken, but not received in Master File.
JORDAN, Paul William	33965	3-31-77	Supreme Court Judgement Affirmed
			Order Affirming Conviction & Sentence
			Warrant for Execution
		6-27-77	Stay of Execution per phone conversation
HOLSINGER, Wilmar	35195	5-13-77	Supreme Court Warrant for Execution
		6-30-77	Stay of Execution